

Chapter 13

(Title 2, Chapter 13 adopted by Ordinance 2008-12, effective March 11, 2008)

Conflicts of Interest

Sections:

- 2-13-1. Purpose.
- 2-13-2. Cross Reference; Municipal Officers and Employees Ethics Act.
- 2-13-3. Definitions.
- 2-13-4. Use of Office For Personal Benefit Prohibited.
- 2-13-5. Compensation For Assistance in Transaction Involving Municipality;
Disclosure Statement Required; Contents; Public Access.
- 2-13-6. Disclosure of Interest Affecting Regulation.
- 2-13-7. Disclosure of Interest Affecting Business Relations.
- 2-13-8. Other Conflicts of Interest.
- 2-13-9. Penalties For Violation.
- 2-13-10. Complaints Charging Violations; Procedure.
- 2-13-11. Nepotism Prohibited.
- 2-13-12. Conflicting Private Employment.
- 2-13-13. Conflicting Investments.
- 2-13-14. Appearances.

Section 2-13-1. Purpose.

The purposes of this chapter are to establish standards of conduct for officers and employees of the city to require these persons to disclose actual or potential conflicts of interest between their public duties and their personal interests.

Section 2-13-2. Cross Reference; Municipal Officers and Employees Ethics Act.

Statutory provisions governing conflicts of interest are outlined §10-3-1301 through §10-3-1312 of the Utah Code.

Section 2-13-3. Definitions.

As used in this chapter:

A. Appointed Officer: Any person appointed to any statutory office or position, or any other person appointed to any position of employment with the city, except special employees. Appointed officers include, but are not limited to, persons serving on special, regular, part time or full time committees, commissions, agencies, councils, foundations created by the governing body or boards, whether or not such persons are compensated for their services. The use of the word "officer" in this chapter is not intended to make appointed persons or employees "officers" of the city according to any meaning that term may have elsewhere.

B. Assist: To act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice or assistance to such person or business

entity and with the intent to so assist such person or business entity.

C. Business Entity: A sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

D. Compensation: Anything of economic value, however designated, which is paid, loaned, granted, given, donated or transferred to any person or business entity by anyone other than the city for or in consideration of personal services, materials, property, or any other thing whatsoever.

E. Confidential Information: Information protected under the Government Records Access and Management Act outlined in §63-2-101 et seq. of the Utah Code or other applicable provisions of law.

F. Elected Officer: Any person elected or appointed to the office of mayor or council member.

G. Improper Disclosure: Improper disclosure of confidential information to any person who does not have both the right and the need to receive the information.

H. Municipal Employee: A person who is not an elected or appointed officer who is employed on a full, part time, or voluntary basis by the city.

I. Substantial Interest: The ownership, either legally or equitably, by an individual, his spouse, and his minor children, or an entity he controls, of at least ten percent (10%) of the outstanding shares of a corporation or ten percent (10%) interest in any other business entity.

Section 2-13-4. Use of Office For Personal Benefit Prohibited.

No elected or appointed officer shall:

A. Disclosure: Disclose confidential information acquired by reason of his or her official position or use such information to secure special privileges or exemptions for himself or herself or others;

B. Misuse Of Position: Use or attempt to use his or her official position to secure special privileges for himself or herself or others; or

C. Gifts Or Loans: Knowingly receive, accept, take, seek or solicit, directly or indirectly, any gift or loan for himself or herself or another if the gift or loan tends to influence him or her in the discharge of his or her official duties, but this subsection does not apply to:

1. An occasional nonpecuniary gift having a value of less than fifty dollars (\$50.00); or
2. An award publicly presented; or
3. Any bona fide loan made in the ordinary course of business; or
4. Political campaign contributions if the contribution is actually used in a political campaign and otherwise complies with applicable state law.

Section 2-13-5. Compensation For Assistance in Transaction Involving Municipality; Disclosure Statement Required; Contents; Public Access.

A. Compensation: No elected or appointed officer or municipal employee may receive or agree to receive compensation for assisting any person or business entity in any

transaction involving the city in which he or she is an officer unless he or she files with the mayor a sworn statement giving the information required by this section, and if an elected or appointed officer, discloses the same in open meeting to the members of the body of which he or she is a member immediately prior to the discussion the information required by subsection D of this section.

B. Condition Of Compensation: No municipal employee may receive or agree to receive compensation for assisting any person or business entity in any transaction involving the city unless he or she discloses the information required by subsection D of this section to his or her immediate supervisor and any other municipal officer or employee who may rely upon the employee's representations in evaluating or approving the transaction.

C. Disclosure Statement: The statement required to be filed by this section shall be filed ten (10) days prior to the date of any agreement between the elected or appointed officer or municipal employee and the person or business entity being assisted, or ten (10) days prior to the receipt of compensation by the business entity, whichever is earlier. The statement is public information and shall be available for examination by the public.

D. Disclosure Information: The statement and disclosure shall contain the following information:

1. The name and address of the officer or employee;
2. The name and address of the person or business entity being or to be assisted or in which the appointed or elected official has a substantial interest; and
3. A brief description of the transaction as to which service is rendered or is to be rendered and of the nature of the service performed or to be performed.

Section 2-13-6. Disclosure of Interest Affecting Regulation.

A. Required: Every appointed or elected officer or municipal employee who is an officer, director, agent or employee or the owner of a substantial interest in any business entity which is subject to the regulation of the city, shall disclose the position held and the nature and value of his interest upon first becoming appointed, elected, or employed by the city and again at any time thereafter if the elected or appointed officer's or employee's position in the business entity has changed significantly, or if the value of his interest in the entity has increased significantly since the last disclosure.

B. Form: The disclosure shall be made in a sworn statement filed with the mayor. The mayor shall report the substance of all such disclosure statements to the members of the city council or may provide to the members of the city council, copies of the disclosure statement within thirty (30) days after the statement is received by him or her.

C. Exceptions: This section does not apply to instances where the value of the interest does not exceed two thousand dollars (\$2,000.00), and life insurance policies and annuities shall not be considered in determining the value of any such interest.

Section 2-13-7. Disclosure of Interest Affecting Business Relations.

A. Every appointed or elected officer or employee who is an officer, director, agent, employee, or owner of a substantial interest in any business entity which does or

anticipates doing business with the city, shall publicly disclose, to the members of the body of which he or she is a member, or by which he or she is employed, immediately prior to any discussion by such body, concerning matters relating to such business entity, the nature of his or her interest in that business entity.

B. The disclosure statement shall be entered in the minutes of the meeting.

Section 2-13-8. Other Conflicts of Interest.

Any personal interest or investment by a municipal employee or by any elected or appointed official of the city which creates a conflict between the employee's or official's personal interests and his public duties shall be disclosed in open meeting to the members of the body.

Section 2-13-9. Penalties For Violation.

In addition to any penalty contained in any other provision of law, including, but not limited to, §10-3-1309 and §10-3-1310 of the Utah Code, any person who knowingly and intentionally violates this chapter may be dismissed from employment or removed from office and is guilty of a Class B misdemeanor.

Section 2-13-10. Complaints Charging Violations; Procedure.

A. Any complaint against a person who is a member of the classified service (as defined by the classification plan adopted by the city council, charging that person with a violation of this chapter, shall be filed and processed in accordance with the procedure of this chapter relating to grievances.

B. If the person charged with the violation is a member of the exempt service, then the complaint shall be filed with the mayor. The mayor shall investigate the complaint and shall give the person an opportunity to be heard. A written report of the findings and the recommendation of the mayor shall be filed with the city council. If the city council finds that the person has violated this chapter, the mayor with the advice and consent of the city council may dismiss, suspend, or take such other appropriate action with respect to the person and the city council may rescind or void any contract or subcontract entered into that resulted from a violation of this chapter, without returning any part of the consideration received by the municipality.

Section 2-13-11. Nepotism Prohibited.

No elected or appointed officer (as defined in Section 2-13-3 of this chapter) shall supervise, be supervised by, employ, appoint or vote for the appointment of his or her father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law in or to any position or employment, when the salary, wages, pay or compensation of such appointee is to be paid out of any public funds except as may be allowed by §52-3-1 of the Utah Code.

Section 2-13-12. Conflicting Private Employment.

No employee shall engage in, solicit, negotiate for, promise or accept outside employment, nor render any services to anyone other than the city in return for a valuable consideration, when such employment or services create a conflict of interest with or is inconsistent or incompatible with or tends to impair the proper discharge of that employee's official duties or the exercise of his discretion in an official capacity. No employee shall serve or be involved with projects, businesses or enterprises which are subject to regulation by or which have transactions with the city.

Section 2-13-13. Conflicting Investments.

A. Prohibited: No employee shall invest or hold any legal or equitable interest in any business or enterprise which investment or interest creates a conflict of interest with or is inconsistent or incompatible with or tends to impair the proper discharge of that employee's official duties or the exercise of his discretion in an official capacity. No employee shall invest in or be involved with projects, businesses, or enterprises which are subject to regulation by or which have transactions with the city.

B. Exemptions: The following investments are exempt from the requirements of this chapter:

1. Bank, savings and loan, or credit accounts;
2. Insurance policies;
3. Securities listed on a national stock exchange;
4. Investments in any business or enterprise which does not do business in the city.

Section 2-13-14. Appearances.

Each employee shall conduct his or her official affairs in such a manner that will give the clear impression that he or she cannot be improperly influenced in the performance of his or her official duties.